



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

30 SEP 2002

Mr. Clyde D. Graeber, Secretary
Kansas Department of Health & Environment
400 SW 8th Ave., Suite 200
Topeka, KS 66603

Dear Mr. Graeber:

This letter responds to the submissions by Kansas of Total Maximum Daily Loads (TMDLS) for water bodies located in the Walnut River Basin, the Verdigris River Basin, and the Neosho River Basin, which were identified on the 1998 Kansas Clean Water Act (CWA) §303(d) list. This list responds to listed waters in these three basins where Kansas chose to address point source impairments with National Pollutant Discharge Elimination System (NPDES) permits in lieu of TMDLS. The TMDLS and NPDES controls in lieu of TMDLS are complete for the Walnut River Basin and the Verdigris River Basin, and are partially completed for the Neosho River Basin. Kansas submitted and revised these TMDLS in several groups, beginning on June 27, 2002 and ending on September 12, 2002. The water body and pollutant identifications are provided in Enclosure A along with similar information for NPDES permits in lieu of TMDLS in Enclosure B. In addition to fulfilling the CWA statutory requirement to develop TMDLS for those waters listed on a state's CWA §303(d) list, this submission was made pursuant to Paragraph 7 of the Consent Decree entered on April 13, 1998.

TMDLS

EPA has completed its review of the TMDLS with supporting documentation and information. By this letter EPA approves the submitted TMDLS identified in Enclosure A. Also, enclosed with this letter are Region 7 TMDL Review forms (enclosure C) which summarize the rationale for EPA's approval of each of these TMDLS. EPA believes the separate elements of the TMDLS described in the enclosed Review forms adequately address the pollutants of concern, taking into consideration seasonal variation and a margin of safety. It is also noteworthy that Kansas has submitted these TMDLS for the Walnut, Verdigris, and Neosho basins ahead of the schedule set in the above referenced Consent Decree.

Kansas also submitted about 62 TMDLs for water body segments and pollutants in these three river basins which do not appear on the Kansas approved 1998 CWA § 303(d) list. These are CWA § 303(d)(3) TMDLS, which do not require EPA review and approval. EPA has not reviewed nor approved these TMDLS. EPA appreciates that Kansas is using the TMDL process as a planning tool to address water quality problems which have not become serious enough to appear on the CWA § 303(d) list.

Consultation with U.S. Fish and Wildlife

EPA is currently engaged in consultation under Section 7 of the Endangered Species Act with the U.S. Fish and Wildlife Service regarding these TMDLS. While EPA is approving these TMDLs at the present time, EPA may decide that changes to the TMDLs are warranted based upon the results of the consultation when it is completed.

NPDES permits in lieu of TMDLs

Kansas determined that seven impaired water body segments identified on the Kansas 1998 CWA §303(d) list as point source impairments do not require TMDLS, because one or more NPDES facilities discharging to the impaired segment are sole contributors of the pollutant and adequate controls exist in the form of NPDES permits to assure attainment of applicable water quality standards. Kansas ensures that NPDES permits for those facilities have been reissued either as new permit limits for the pollutant of concern, or, with compliance schedules that will bring the water body into attainment with water quality standards (WQS). As a result of effluent limitations already in place, it is EPA's understanding that the water body segments identified along with the pollutant and NPDES facility in Enclosure B, will be (or already are) in compliance with the currently effective Kansas WQS.

Kansas' determination not to develop TMDLs for the above identified water body segments and pollutants is consistent with paragraph five of the above referenced Consent Decree which reads: "In fulfilling their obligations under this Consent Decree, Kansas is under no obligation to submit TMDLs to EPA nor is EPA under any obligation to establish TMDLs either (a) that are determined not to be needed consistent with Section 303(d) of the CWA and its implementing regulations, as either may be amended from time to time, including, but not limited to, 40 C.F.R. §130.7(b)(1), or (b) for WQLSs or pollutants that were on Kansas' 1996 Section 303(d) list but, consistent with the provisions of the CWA and its implementing regulations, were removed from any subsequent Kansas Section 303(d) list."

EPA appreciates the thoughtful effort that Kansas has put into these TMDLs and NPDES permits in lieu of TMDLs and will continue to cooperate with and assist, as appropriate, in future efforts by Kansas to develop TMDLS.

Sincerely,

A handwritten signature in black ink, appearing to read "Leo J. Alderman", with a long horizontal flourish extending to the left.

Leo J. Alderman
Director

Water, Wetlands, and Pesticides Division

Enclosures

cc: Tom Stiles, KS Dept of Health and Environment, Topeka, KS
John Simpson, KNRC, Inc.

ENCLOSURE A

TMDLS FOR 303(d) LISTED WATERS

NEOSHO BASIN

| | | |
|--------------------------------|----------------------|-------------|
| 1. Altamont City Lakes# I & #2 | eutrophication | TMDL ID 185 |
| 2. Bartlett City Lake | eutrophication | TMDL ID 132 |
| 3. Canville Creek | DO | TMDL ID 141 |
| 4. Chanute/SF City Lake | eutrophication/DO/pH | TMDL ID 130 |
| 5. Cherry Creek | DO | TMDL ID 142 |
| 6. Council Grove Lake | eutrophication | TMDL ID 183 |
| 7. Council Grove Lake | siltation | TMDL ID 182 |
| 8. Allen (Dows) Creek | DO | TMDL ID 128 |
| 9. Eagle Creek | DO | TMDL ID 139 |
| 10. Gridley City Lake | eutrophication/DO | TMDL ID 125 |
| 11. Labette Creek | DO | TMDL ID 143 |
| 12. Marion Co Lake | eutrophication/DO | TMDL ID 184 |
| 13. Mined Land WA Unit #42 | DO | TMDL ID 186 |
| 14. Neosho Co SFL | eutrophication/DO/pH | TMDL ID 129 |
| 15. Neosho River Headwater | fecal coliform | TMDL ID 179 |
| 16. Neosho WMA | eutrophication | TMDL ID 134 |
| 17. Neosho WMA | siltation | TMDL ID 188 |
| 18. Parsons Lake | eutrophication | TMDL ID 133 |
| 19. Parsons Lake | siltation | TMDL ID 187 |
| 20. Pittsburg College Lake | eutrophication/pH | TMDL ID 131 |
| 21. Shawnee Creek | DO | TMDL ID 175 |
| 22. Turkey Creek | DO | TMDL ID 140 |

VERDIGRIS BASIN

| | | |
|------------------------------------|------------------------|-------------|
| 23. Big Hill Creek | DO | TMDL ID 177 |
| 24. Big Hill Creek | fecal coliform | TMDL ID 167 |
| 25. Cherryvale City Lake (L Tanko) | eutrophication | TMDL ID 161 |
| 26. Chetopa Creek | DO | TMDL ID 176 |
| 27. Chetopa Creek | fecal colifonn | TMDL ID 165 |
| 28. Elk River | DO | TMDL ID 174 |
| 29. Elk River | fecal coliform | TMDL ID 168 |
| 30. Fall River | DO | TMDL ID 156 |
| 31. Fall River | fecal coliform | TMDL ID 166 |
| 32. La Claire Lake | eutrophication | TMDL ID 160 |
| 33. Montgomery Co St F Lk | eutrophication/DO/pH | TMDL ID 162 |
| 34. Onion Creek | DO | TMDL ID 173 |
| 35. Pumpkin Creek | DO | TMDL ID 144 |
| 36. Verdigris River | fecal colifonn | TMDL ID 157 |
| 37. Verdigris River | nutrients & oxy demand | TMDL ID 181 |
| 38. Walnut Creek | DO | TMDL ID 153 |
| 39. West Creek | DO | TMDL ID 178 |
| 40. Wilson Co St F Lk | eutrophication/DO | TMDL ID 121 |
| 41. Woodson Wildlife Area | eutrophication/DO | TMDL ID 122 |
| 42. Woodson Wildlife Area | fecal coliform | TMDL ID 123 |

WALNUT BASIN

| | | |
|-------------------------------|------------------------|-------------|
| 43. Augusta Santa Fe Lake | eutrophication/DO | TMDL ID 171 |
| 44. Augusta Santa Fe Lake | siltation | TMDL ID 172 |
| 45. Butler Co St F Lk | eutrophication | TMDL ID 119 |
| 46. El Dorado Lake | eutrophication | TMDL ID 137 |
| 47. El Dorado Lake | siltation | TMDL ID 169 |
| 48. Harvey Co East Lake | eutrophication | TMDL ID 120 |
| 49. Little Walnut River | fecal coliform | TMDL ID 147 |
| 50. Rock Creek | fecal coliform | TMDL ID 148 |
| 51. Upper Walnut River | fecal coliform | TMDL ID 126 |
| 52. Walnut River in Butler Co | nutrients & oxy demand | TMDL ID 146 |
| 53. Walnut River in Cowley Co | nutrients & oxy demand | TMDL ID 149 |
| 54. Walnut River | sulfate | TMDL ID 170 |
| 55. Whitewater River | fecal coliform | TMDL ID 127 |
| 56. Winfield Park Lagoon | eutrophication | TMDL ID 118 |

ENCLOSURE B

PERMITS IN LIEU OF TMDLS FOR LISTED WATERS

1. Verdigris Basin, Drum Creek, VE-NW-34, Permit, City of Cherryvale, fecal coliform
2. Verdigris Basin, Drum Creek, VE-MV-34, Permit, City of Cherryvale, ammonia
3. Verdigris Basin, Little Caney Creek, VE-C-8, Permit, City of Caney, fecal coliform
4. Verdigris Basin, Verdigris River, VE-W-27, Permit, City of Coffeyville, fecal coliform
5. Verdigris Basin, Verdigris River, VE-MV-27, Permit, City of Coffeyville, ammonia
6. Verdigris Basin, Verdigris River, VE-MV-35, Permit, City of Independence, fecal coliform
7. Verdigris Basin, Verdigris River, VE-MV-35, Permit, City of Independence, ammonia
8. *Walnut Basin, Timber Creek, WA-LW-2, Memo, Winfield State Hospital, ammonia
9. * *Walnut Basin, Walnut River, WA-UW-2, Permit, City of Augusta, ammonia
10. Walnut Basin, Walnut River, WA-UW-2, Permit, City of El Dorado, ammonia
11. * *Walnut Basin, Whitewater River, WA-UW- 1 7, Permit, City of Augusta, ammonia
12. * * Walnut Basin, Whitewater River, WA-UW- 1 7, Permit, City of Augusta, fecal

* The Winfield State Hospital mechanical plant has been demolished and no longer discharges into Timber Creek.

* * The discharge for the upgraded Augusta NPDES facility has been moved from the Whitewater River (segment 17) to the Walnut River (segment 2).